



**JON KYL**  
U.S. SENATOR FOR ARIZONA  
**NEWS**

730 HART SENATE OFFICE BUILDING ■ WASHINGTON, D.C. 20510 ■ (202) 224-4521

**FOR IMMEDIATE RELEASE:**

September 24, 2002

**CONTACT:**

Matthew Latimer or  
Andrew Wilder, (202) 224-4521

**Landmark Arizona Water Settlement  
Introduced In Senate**

*Legislation Comes After of Years of Negotiation, Disputes*

WASHINGTON, D.C. - U.S. Sens. Jon Kyl and John McCain today introduced historic legislation to settle claims over Indian water rights and repayments owed to the federal government by Arizona for construction of the Central Arizona Project.

"By resolving one of Arizona's longest-standing water rights disputes, this settlement will finally bring certainty to cities and communities planning their growth and development," said Kyl, who has worked for years to bring the disparate groups together to come to a settlement.

"The settlements embodied in this bill are of vital importance to Arizona's productive future," said Senator McCain. "These agreements reflect five years of intensive negotiations by state, federal, tribal, municipal, and private parties. All of those involved are to be commended for their extraordinary commitment and diligence to reach this final stage in the settlement process."

The "Arizona Water Settlements Act of 2002" is divided into three titles. The first resolves the amount of repayments by the state to the federal government for the costs of construction of the Central Arizona Project and creates a funding mechanism and water allocation for current and future Indian water settlements. The second title resolves claims by the Gila River Indian Community, and the third amends the 1982 "Southern Arizona Water Rights Settlement Act," resolving claims by the Tohono O'odham Nation.

### **Basic Questions about the Settlement:**

**What is the dispute about?** Indian tribes, farmers, local community and city planners, the State of Arizona and other parties all lay claim to a finite amount of water. This has spurred costly lawsuits to determine what share each side is entitled to.

**Who is involved?** At least 35 different groups are involved in one part or another in these disputes, and all agreed to this settlement.

**Why is this settlement needed?** As long as issues relating to the CAP and assorted water claims linger in courts, community planners in the Central Valley will have no idea how much water they will ultimately be able to make use of, greatly frustrating growth and expansion. Additionally, Indian tribes have severely limited access to water and financial resources necessary to develop their land or put it to other uses. The prospect of lengthy, years-long litigation works to no party's benefit, would exact an enormous financial cost, and would create further obstacles to long-range economic planning and development of Arizona communities.

**What is the basis for the Indians' claims?** Under a 1908 legal doctrine of "federally reserved rights," Indian tribes are entitled under federal law to sufficient water to serve the purpose of their reservations. No court has yet determined how large an amount that might be in Arizona.

**Why must Congress act?** This act is necessary to confirm the agreement between the Central Arizona Water Conservation District and the United States and to confirm the settlements between the U.S. government, Indian tribes, the states, and local communities and parties. Additionally, in order to adequately fund the terms of this settlement, several federal laws will have to be amended by Congress.

### **Title I: CAP Repayment**

- Finalizes an agreement reached by the U.S. Government and Arizona for Central Arizona Project repayment obligations, determining that Arizona water and power users will repay the federal government \$1.65 billion for the CAP's construction;
- Approves an agreement under which agricultural districts are expected to relinquish long-term entitlements to CAP water in exchange for: relief from the Reclamation Reform Act, debt relief totaling \$73 million; avoiding litigation with Indian tribes; and the use of excess CAP water at favorable prices until 2030;
- Reallocates 65,647 acre-feet of municipal and industrial CAP water to various water companies

and communities, including 7,115 acre-feet per year (AFY) for the city of Mesa, 2,981 AFY for Scottsdale, 3,053 AFY for Glendale, 8,206 AFY for Phoenix, and 8,206 AFY for Tucson;

- Divides the 1.5 million-acre feet of CAP water to allot 47.2 percent to Indian tribes to settle their claims, and the remainder -- 52.8 percent -- to non-Indian users;
- Provides a new approach for funding Indian water settlements, allowing revenue to be used for fixed operation, maintenance, and replacement costs for CAP deliveries to Arizona Indian tribes, and the costs of future Indian water settlements in Arizona.

## **Title II: Gila River Indian Community Settlement**

- Settles water disputes between the Gila River Indian Community and all parties (including New Mexico parties);
- Assures the state greater certainty of the priority and quantity of rights to the Salt, Verde, and Gila Rivers and of CAP allocation to benefit future planning in the states;
- In exchange for the settlement, the Gila River Indian Community waives pending water rights claims and injuries;
- Authorizes tribes to lease water to Arizona cities, but prohibits the lease or sale of CAP water outside of the state;
- Assures that neither the U.S. government nor the Gila River Indian Community will object to the water rights claims of the parties to the agreement, and will not object to existing legal uses of water by farmers and other water users in the Central Valley basin;
- Approves leases of water between the Community and the cities of Chandler, Glendale, Mesa, Peoria, Phoenix, and Scottsdale. Also authorizes and contemplates leases with other Arizona towns and cities;

## **Title III: Southwestern Water Settlement Amendments**

- Settles pending litigation by the Tohono O'odham Nation that delayed implementation of the Southern Arizona Water Right Settlement Act of 1982. That legislation had settled disputes between Indian tribes and the city of Tucson and other water users in the Upper Santa Cruz Basin.
- Specifies benefits for the San Xavier District, including rehabilitation and expansion of the existing Cooperative Farm;
- Clarifies that 28,200 acre feet of CAP water is to be allocated to the Tohono O'odham once the litigation is dismissed.

"There are a few remaining issues that need to be addressed as this legislation advances in Congress,"

said the Senators. "But the introduction of this bill is a tremendous step forward in resolving water-use disputes that have created uncertainty in Arizona's ability to grow and thrive."

###



[Return to Press Office](#)